



Seattle Human Rights Commission

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Statement of the Seattle Human Rights Commission

Police Drone Legislation

Council Bill 117707

City Council Committee on Public Safety, Civil Rights & Technology

February 6, 2013

Good afternoon Chairman Harrell and Committee members. On behalf of the Seattle Human Rights Commission, I would like to thank you for proposing this bill that would limit the use of drones by the Seattle Police Department. The Commission is providing this testimony because we believe that the City government must only use drones in a manner consistent with the fundamental human rights to privacy, due process, and the right to redress as well as the constitutional rights to privacy, due process, equal protection, and the freedom of association.

We note that on December 10, 2012, the Council officially declared Seattle to be a Human Rights City through Council Resolution Number 31420. We applaud the City's commitment to adopt the principles in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights and to strive to ensure that city ordinances advance those principles.

Before we detail our concerns, we first start by urging the Committee to delay voting on this ordinance in order to hold additional hearings on this legislation so that the public has a chance to carefully review the ordinance, assess the important constitutional and human rights at stake, and provide informed comments and suggestions to the Committee.



A Seattle Police Department Drone

The proposed legislation, C.B. 117707, is intended to address privacy concerns regarding the deployment of unmanned aerial vehicles, or drones, by the Seattle Police Department. SPD has purchased two drones and has received clearance from the Federal Aviation Administration (FAA) to operate the drones for training purposes only. The City and SPD will apply for broader FAA authorization to operate drones for law enforcement purposes. The two SPD drones carry high definition video and still cameras, have infrared capacity, and the images captured by the drones can



be processed by SPD with facial recognition technology that can be used in conjunction with Washington State's new drivers' license facial recognition database.

While the range, payload, and mobility of the current drones are somewhat limited, there is no doubt that future technological advances will only enhance the information gathering capacity of next generation drones. The Council should take this opportunity to enact legislation that effectively regulates the City's use of current drones, anticipating the deployment of far more technologically advanced drones in the next five to ten years.

Rights of Privacy, Due Process, Effective Remedy, and Equal Treatment

The right to privacy is a fundamental human right that includes the general right to be free from State intervention. The right also includes the right to anonymity which is the principle that people should be able to remain anonymous while exercising certain other protected rights even in public spaces. The right to privacy is contained in both Article 12 of the Universal Declaration of Human Rights (UDHR) and Article 17 of the International Covenant on Civil and Political Rights (ICCPR).

The use of drones to record, collect, and transmit information on individuals raises significant privacy concerns. We agree that the restrictions on data collection contained in the bill are important and we thank the Council for including those.

However, we do not think the bill goes far enough.

For instance, we are concerned that the bill expressly allows law enforcement to retain and use data that is inadvertently obtained. Furthermore, we are especially concerned that the bill as drafted allows such data to be entered into evidence in court and administrative proceedings. We ask the Committee to remove these provisions. The Council should instead require SPD to specify how the inadvertent collection or retention of data will be minimized and should prohibit such data from being used in court and administrative proceedings. The use of such data in court or administrative proceedings may also violate the human rights to due process and an effective remedy for violations of human rights. The rights to due process and an effective remedy are found in Articles 8, 10, and 11 of the UDHR and Articles 2 and 14 of the ICCPR.

Specific Recommendations

Based on the rights to privacy, due process, and an effective remedy, the Commission recommends the following changes to C.B. 117707:

1. Remove the authority of law enforcement to use inadvertently collected data. Strike the last sentence of 14.18.40. Amend the second sentence to say that "SPD should avoid data collection on individuals, homes, or other areas other than the target."
2. Remove the effect on admissibility in section 14.18.080. Data collected should not be presumed admissible in court or administrative proceedings. Replace with the following:



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“EVIDENCE- Whenever information has been collected by means of use of an unmanned aircraft system, no part of the contents of such information and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee unless that information is collected in accordance with this chapter.”

3. Expressly prohibit the use of data collected in any court or administrative proceeding except when lawfully collected in accordance with the provisions of the bill.
4. Prohibit the unlawful use of drones by adding at the end of 14.18.030(A), “It shall be unlawful for a person or entity to operate an unmanned aircraft system in a manner that is not in accordance with the terms of a data collection statement.”
5. Provide a civil cause of action for violation of the ordinance by authorizing civil suits in courts to enjoin further violations, to allow for monetary damages, and by striking 14.18.090(A).
6. Provide that citizens may also file complaints with the Office of Professional Accountability for violations of authorized drone use.
7. Provide that the data collected by drones and retained by SPD will be made available to citizens.
8. Provide that data collected by drones may be used in OPA investigations of police misconduct.
9. Require that data collected by drones will be synthesized with new SPD data collection systems pursuant to the Settlement Agreement and Monitoring Plan in *U.S. v. Seattle*.

General Recommendations:

- Authorize a drone surveillance system only to further a clearly articulated law enforcement purpose.
- Publicly address the impact of a drone surveillance system on constitutional rights and human rights.
- Create strict legal and administrative safeguards to reduce the potential for misuse and abuse of the system.
- Ensure that the decision to create a drone surveillance system is made through an open and publicly accountable process.

If you have any questions please do not hesitate to contact Felicia Yearwood at felicia.yearwood@seattle.gov or (206) 684-4537. Thank you for considering our requests.